

Appl. No. : 10/079,077  
Filed : February 19, 2002

### REMARKS

Claims 5, 7, 15, 16, and 19 have been amended to clarify the invention. The amendments raise neither the issue of new issue nor the addition of new matter to the application. Applicant respectfully requests entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

#### Request for Withdrawal of Finality

The Office Action was made final. However, “[u]nder present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).” See MPEP § 706.07(a).

Here, as discussed below, the Examiner raises the new ground of rejection under 35 U.S.C. § 112, second paragraph by asserting “Applicant is claiming the supporting device in claims 3 and 5-22, but it is unclear whether Applicant is also attempting to claim the pipe because the claims contain limitations to the pipe.” However, the original claims already contained “limitations to the pipe” and the limitations are not introduced by applicant's amendment. Thus, clearly, the new ground of rejection is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). The finality of the action is therefore premature and unfair to Applicant. Applicant respectfully requests withdrawal of the finality of the action.

#### Rejection Under 35 U.S.C. § 112

Claims 3 and 5-22 have been rejected under 35 U.S.C. § 112, second paragraph. The Examiner asserts: “Applicant is claiming the supporting device in claims 3 and 5-22, but it is unclear whether Applicant is also attempting to claim the pipe because the claims contain limitations to the pipe.” Applicant respectfully traverses this rejection.

Claim 3 is drawn to a supporting device as clearly stated in the first line and recites as elements a frame (line 3) and a fixing mechanism (line 5) which comprises edge portions (line 6)

Appl. No. : 10/079,077  
Filed : February 19, 2002

and wedge bodies (line 8). No other elements are positively recited. The limitations, such as “adapted to encircle a pipe body,” “for receiving an outer surface of the pipe body,” “for blocking movements of the pipe body in a pipe axial direction,” “upon being pressed against an outer surface of the pipe body,” etc. are simply describing structures by using functional language or describing what the structures are capable of doing. Without referring to the pipe body, it is impossible to describe or define the claimed supporting device. Since no elements of the pipe body are positively recited, it is unreasonable to state: “it is unclear whether Applicant is also attempting to claim the pipe.” The above explanation can apply to the remaining claims (although immaterial amendments have been made to Claims 15, 16, and 19), and Applicant believes that this new ground of rejection should be withdrawn.

Rejection of Claims 7, 8, and 15 Under 35 U.S.C. § 102

Claims 7, 8, and 15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Smith. Applicant respectfully traverses this rejection. Claims 7 and 15 are independent. Claim 8 depends from Claim 7. Claim 7 has been amended to clarify the invention.

Claim 7 recites: “said edge portions formed on a first half portion of the inner circumferential surface of the frame in a circumference direction,” and “said male screw members provided on a second half portion of the inner circumferential surface of the frame.” Thus, in Claim 7, the first half portion of the inner circumferential surface in the circumference direction has edge portions, and the second half portion of the inner circumferential surface has male screw members. This structure is embodied in Figs. 5, 12, and 25, for example. Smith does not teach or suggest this structure.

Claim 15 recites: “each movement blocking body having three or more edge portions at intervals in the pipe axial direction, or alternatively, one edge portion, ... whereby only the edge portion(s) are to be in contact with and pressed against an outer surface of the pipe body.” These structures are embodied in Figs. 29-32, for example. Smith shows arc-shaped edge portions (38) which may correspond to “movement blocking bodies”. However, each arch-shaped edge portion does not have one or three or more (excluding two) edge portions.

Appl. No. : 10/079,077  
Filed : February 19, 2002

Thus, Smith clearly fails to teach each and every element of Claims 7, 8, and 15 and could not anticipate these claims. Applicant respectfully requests withdrawal of this rejection.

Rejection of Claim 3 Under 35 U.S.C. § 103

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of USP 5,772,252 (Malani). Applicant respectfully traverses this rejection.

Claim 3 recites: “edge portions formed on an inner surface of the frame for receiving an outer surface of the pipe body from one side in a radial direction of the pipe body,” and “wedge bodies ... being pressed against an outer surface of the pipe body from the other side in the radial direction of the pipe body.” These features are embodied in Figs. 24 and 25, for example. In order to make the above-described functions, the edge portions must be formed on one side of an inner surface in a radial direction, and the wedge bodies must be formed on the other side of the inner surface in the radial direction.

In Smith, edge portions (38, 39) and wedge bodies (22) are formed evenly in a radial direction (see Fig. 2). Smith’s apparatus is not capable of accomplishing the above functions recited in Claim 3. Malani is irrelevant to the above features. Thus, a combination of Smith and Malani could not render Claim 3 obvious.

Further, the Examiner asserts: “Smith in view of Malani does not specifically disclose the force of a pair of wedge bodies as opposite in the axial direction. However, the orientation of each wedge body would be a matter of engineering preference that would have been obvious to one of ordinary skill in the art at the time of the present invention.” However, as can be seen from Figs. 1 and 2 of Smith, the directions of the edge portions (38, 39) and wedge bodies (22) in Smith cannot easily be changed; even if it is possible, it is clearly beyond a matter of engineering preference, and Smith fails to disclose enabling disclosure to change the directions of the edge portions and wedge bodies. Even if Malani is combined with Smith, one of ordinary skill in the art still could not accomplish a structure where “directions of wedge actions of one pair of wedge bodies adjoining in the pipe axial direction are opposite with respect to each other in the pipe axial direction” as shown in Fig. 24 of the present application.

Appl. No. : 10/079,077  
Filed : February 19, 2002

Thus, Claim 3 could not be obvious over Smith in view of Malani. Applicant respectfully requests withdrawal of this rejection.

Rejection of Claims 5, 6, and 16-22 Under 35 U.S.C. § 103

Claims 5, 6, and 16-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 3,966,528 (Christie) in view of Smith. Claims 5, 16, and 19 are independent. Applicant respectfully traverses this rejection.

Claim 5 recites: “i) a mounting seat portion to be fixed to the supporting plane,” “ii) a pipe supporting portion ... rising vertically from the mounting seat portion,” “iii) a rib attached to the mounting seat portion, extending in a pipe axial direction, and connected to the pipe supporting portion,” and “the mounting seat portion, the pipe supporting portion, and the rib are rigidly integrally formed.”

The Examiner asserts: “Christie discloses a supporting device for pipes with a frame comprised by integrally forming a mounting seat portion (21), a pipe supporting portion (10), and a rib (20) in line with the pipe axial direction.”

However, the Examiner oversimplifies the claimed invention.

First, in the claimed invention, the mounting seat portion (e.g., 14) is to be fixed to the supporting (or fixing) plane (e.g., 12) such as a foundation to which the frame is to be fixed. Christie does not show any supporting plane. Clearly, in Christie, the mounting seat portion (21) is not fixed to any supporting plane.

Second, in the claimed invention, the pipe supporting portion (e.g., 15, 15B) rises vertically from the mounting seat portion. In Christie, the pipe supporting portion (10) does not rise vertically from the mounting seat portion (21).

Third, in the claimed invention, the rib (e.g., 16) is attached to the mounting seat portion, extends in a pipe axial direction, and is connected to the pipe supporting portion. In Christie, the rib (20) does not extend in a pipe axial direction and is not connected to the pipe supporting portion (10).

Thus, the structures of Christie are dissimilar to those recited in Claim 5.

Appl. No. : 10/079,077  
Filed : February 19, 2002

Fourth, in the claimed invention, the mounting seat portion, the pipe supporting portion, and the rib are rigidly integrally formed. The Examiner asserts: “the elements are integrally formed in Christie (integral is not limited to one-piece) and the arrangement appears rigid.” However, “rigid” means “not bending or flexible; stiff; not moving” (Webster’s New World Dictionary, Modern Desk Edition). In Christie, clearly, the mounting seat portion (21) and the rib (20) are designed to move with respect to the pipe supporting portion (10). Thus, it is unreasonable to consider that the mounting seat portion (21), the rib (20), and the pipe supporting portion (10) are rigid in Christie.

Fifth, although the Examiner asserts: “the elements are integrally formed in Christie (integral is not limited to one-piece),” the word “form” means “shape; fashion” (Webster’s New World Dictionary, Modern Desk Edition), and “integral” means “whole or complete” (Webster’s New World Dictionary, Modern Desk Edition). Thus, “integrally formed” can reasonably be understood to mean “shaped or fashioned as a whole”. This is clearly distinguished from “assembled.” In Christie, the mounting seat portion (21), the rib (20), and the pipe supporting portion (10) are not shaped or fashioned as a whole, but they are assembled. Thus, it is unreasonable to consider that the mounting seat portion (21), the rib (20), and the pipe supporting portion (10) are integrally formed in Christie.

In view of the foregoing, Christie does not teach or suggest the features of Claim 5 discussed above. Smith is irrelevant to the above features, and thus, a combination of Christie and Smith could not render Claim 5. Claims 16 and 19 have limitations similar to those recited in Claim 5. Thus, Claims 16 and 19 and also the remaining dependent claims also could not be obvious over the references. Applicant respectfully requests withdrawal of this rejection.

Rejection of Claims 9-14 Under 35 U.S.C. § 103

Claims 9-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith. Please note that Claims 10-14 were previously canceled. Applicant respectfully traverses this rejection.

**Appl. No.** : **10/079,077**  
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The Examiner asserts: "Smith does not disclose a top portion with rounded edges. However, the specific shape of the wedge bodies appears to be a matter of design preference that would be obvious to one of ordinary skill in the art at the time of the present invention, as it doesn't appear to serve any specific function." However, as shown in Figs. 17(a) and (b), because the top surface of the movement blocking body (27) is rounded, when the pipe (3) moves in the axial direction, the movement blocking body (27) is slightly angled and a distal one of the paired edge portions (29) presses harder against the surface of the pipe to effectively block the axial movement of the pipe (page 32, first paragraph). This is a specific function exhibited by the structures recited in Claim 9. Thus, Claim 9 could not be obvious over Smith.

### CONCLUSION

In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 9, 2005

By:

  
Katsuhiro Arai  
Registration No. 43,315  
Agent of Record  
Customer No. 20,995  
(949) 760-0404

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